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### REMARKS

Claims 1-5, 8-12, 15 and 16 are pending in this application. By this Amendment, claims 1, 2, 8, 9, and 15 are amended and claims 6, 7, 13, 14, 17, and 18 are cancelled without prejudice or disclaimer. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

The Office Action rejects claims 1-18 rejected under 35 U.S.C. § 103 (a) over Lee et al. (U.S. Patent No.5,430,732) and Kumar et al (U.S. Patent No.6,657,987). These rejections are respectfully traversed.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the reference or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references, when combined, must teach or suggest all of the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure (MPEP 2142). The prior art must suggest the desirability of the claimed invention (MPEP 2143.01).

Regarding claim 1, the invention, as now claimed by applicant in amended base claim 1, includes the feature of "calculating a deferral window for said first user terminal traffic stream; scheduling transmissions of data frames between said base station and said plurality of user terminal traffic streams that remain on said active list; and returning said first user terminal traffic stream to said active list at the expiration of said deferral window." For example, the deferral window is calculated for deferring the return of the first user terminal traffic stream to the active list.

The Office Action alleges that in column 3, lines 53-54, Lee et al discloses "a latency period, which is a design parameter." In other words, the latency period is fixed and not calculated. The Office Action then refers to Kumar et al figure 8, element 801, and concludes that it would have been obvious to one skilled in the art to calculate the latency period of Lee et al in order for the system to be more responsive to changes in traffic flow. Hence, in summary,

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the Office Action is of the opinion that the teachings of Lee et al when combined with Kumar et al essentially teach a latency period that can be calculated and therefore this period may vary.

However, as stated in Lee et al in column 3, lines 52- 56, "It then determines the number of stations in the active set and divides the assigned latency period, which is a design parameter, by the number of active stations to determine the salary, or number of slots to be assigned initially to each active station."

From the above teachings of Lee et al in view of Kumar et al it is clear that there is no mention of the deferral window as claimed amended claim 1. What is described in Lee et al is a period of time (the latency period) that is used to determine a number of slots to be initially assigned to each active station. Thus, the combination of Lee et al and Kumar et al would result in the possibility of the number of slots varying depending on the calculated latency period. In contrast, the deferral window in amended claim 1 is used for deferring the return of the first user terminal traffic stream to the active list as clearly recited as the last step of claim 1: "returning said first user terminal traffic stream to said active list at the expiration of said deferral window." Hence, the combination of Lee et al and Kumar et al would not result in the deferral window and use thereof as recited claim 1. It is therefore submitted that amended claim 1 is patentable.

Referring to the rejection of claim 8, the same comments regarding claim 1 also apply and it is therefore submitted that claim 8 is patentable.

Referring to claim 15, the equation parameters of claims 15 is not described in Kumar et al. The equation (equation 1) in Kumar et al. is for calculating a service rate for determining the data rate over a time interval. This equation (equation 1) does not calculate the deferral window equation in claim 15 as there is no mention of a deferral window in Lee et al or Kumar et al. More specifically, the equation in Kumar et al calculates the service rate whereas the deferral window equation in claim 15 calculates a time period based on a mean service rate (mean data transfer rate). Because the deferral window is not mentioned in either Lee et al or Kumar et al

nor is the recited equation:  $T_D = \begin{cases} T_i, & L_i / \rho_i \geq T_{db} \\ T_x, & \text{otherwise} \end{cases}$  mentioned, claim 15 is patentable.

Therefore, Applicants respectfully submit that independent claims 1, 8, and 15 define patentable subject matter. The remaining claims depend from the independent claims and

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therefore also define patentable subject matter. Accordingly, Applicants respectfully request the withdrawal of the rejections under 35 U.S.C. § 103.

#### CONCLUSION

Based on the foregoing amendments and remarks, Applicants respectfully submit this application is in condition for allowance. Favorable consideration and prompt allowance of claims 1-5, 8-12, 15 and 16 are earnestly solicited.

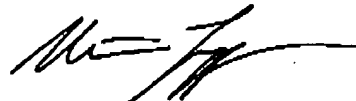
Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

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The Commissioner is hereby authorized to deduct any fees arising as a result of this Amendment or any other communication from or to credit any overpayments to Deposit Account No. 50-2117.

Respectfully submitted,



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